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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,332	12/02/2003	Wei Yen	57159-8009.US01	5294
22918	7590	11/09/2006	EXAMINER	
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			HOMAYOUNMEHR, FARID	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/727,332	Applicant(s) YEN ET AL.	
	Examiner Farid Homayounmehr	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: application, filed 4/6/2001; amendment filed 8/4/2006 and supplemental amendments filed 8/18/2006.
2. Claims 1-90 are pending in the case.

Response to Arguments

3. Applicant's arguments with respect to rejection of claims 2, 22 and 24 under 35 U.S.C. 112 second paragraph, have been fully considered and are persuasive. The mentioned rejection has been withdrawn due to amendments by the applicant.
4. Applicant's arguments with regards to rejection of claims 1-90 under 35 U.S.C. 102, filed 8/18/2006 have been fully considered but they are not persuasive.

Applicants have argued "Notably, since the text-based message is sent to the Media Player, Siann et al. logically cannot send the text-based message to a hand-held device via a transport technique not including a playback device. In Siann, the hand-held device and the Media Player are one in the same." This argument is not persuasive because the media player of Siann is not just the

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play back device, and has devices and functionalities in addition to a media play back device. As described in paragraph 37, "Media player" refers to a portable device that plays electronic audio and/or video content and can electronically receive a transmission for electronic media content and advertising content." Also, Fig. 4 shows the Media Player includes devices in addition to a play back device. Therefore, the media player receives and transmits electronic data, and sending messages to it via a transport technique not including a playback device is performed.

Applicants have argued with regards to rejection of claims 1-24 that claim 1 is allowable because it includes the limitation "sending to a hand-held device, via a transport technique not including the playback device, a text-based message that includes data from which rights information is derivable by the system[.]". However, as discussed above, Siann discloses the mentioned limitation, and the argument is not persuasive.

Applicants have further argued that "Siann et al. has provided no suggestion or motivation to send text-based messages to a hand-held device, and derive rights information for a playback device therefrom." However, as mentioned in the first office action, paragraphs 80 and 39 of Siann disclose the mentioned feature.

With regards to claim 8, applicants have argued that "Siann et al. do not disclose putting together the identity of a playback device and the identity of content, nor do they disclose using the identity of the playback device and the identity of the content, along with the message, to authenticate execution rights." However, the standard process of media content authentication performed as part of media content access control involves the identity of the playback device and identity of the media and part of the authenticating or authorizing message. Therefore the added limitations are inherently part of the process of media access control, which is the subject matter of Siann's invention (see paragraph 14). Moreover, applicants have not identified any part of specifications for the required support of added limitations.

With regards to claim 11, applicants have argued "Claim 11 includes entering "at least a portion of the message" where the message is received at a hand-held device and at least a portion of the message is entered into a playback device. Since the Examiner has provided no motivation to enter data as in the claimed method, Claim 11 is allowable for this additional reason." However, entering the message into the Media Player is disclosed by Siann as one of its operations, and paragraph 47 clearly suggests automatic or manual performance of operations. Therefore, Siann suggests manual entry of message into the device. Moreover, manual entry of data had been widely practiced before the time of invention. Barring any unexpected result, it would have been trivial for any

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operator of Siann's device to enter the message content, such as a passcode, a key, etc. into the device manually. Therefore, the argument is not persuasive to put the claim in the condition of allowance.

With regards to claims 25-26, applicant's argument is similar to their argument with regard to claim 8, with the addition of a right enforcing software or hardware, which is disclosed by Siann Fig. 4 and paragraph 98.

With regards to claims 27-33, applicants have argued that Siann does not disclose a "secure processor". However, as described in paragraph 98, Siann's process performs operations to ensure the security of content media access, and therefore is a secure processor.

With regards to claims 34-35, applicants have argued that Siann does not disclose or suggest the language of claims. However the new limitations in claims 34-35 language are rejected based on Siann as described in the next section.

With regards to claims 36-68, applicants have cited the new limitations added to the claim 36 language and asserted that the limitations are not disclosed by Siann. However, the new limitations included in the amended claim 36 are rejected as described in the next section. Applicants arguments regarding allowability of claims 37-68, or 68-90 are accordingly not persuasive.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 to 90 are rejected under 35 U.S.C. 102(e) as being anticipated by Siann (US Patent Application No. 2003/0120541, filed 12/21/2001).

6.1. As per claims 1 and 25, Siann is directed to a method including providing a system including a playback device; sending to a hand-held, via a transport technique not including in the playback device (Fig. 1B clearly indicates a transmission path separate from the media player, as described in paragraph 99. Note that the Media Player includes a play back device and a transmission/reception device and a device to enforce the access rules, and therefore the message is sent while not including the playback device). A text-based message (paragraph 43) that includes data from which rights information is derivable by the system (Fig. 1B and paragraph 43); enforcing the

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rights information on the system in response to the text-based message
(paragraph 80 and 39).

6.2. As per claims 2, 32, Siann is directed to a method as in claim 1 and 27, including steps of ensuring that only authorized content is executed or presented by the playback device or a secure processor, or by both in combination or conjunction (paragraph 98).

6.3. As per claim 3, Siann is directed to a method as in claim 1, including steps of sending content to the playback device using a communication link not used by the steps of sending a text-based message (Fig. 1B and associated text)

6.4. As per claim 4, Siann is directed to a method as in claim 1, wherein the steps of enforcing are performed at least in part by the playback device or a secure processor coupled thereto (paragraph 98).

6.5. As per claim 5, 31, Siann is directed to a method as in claim 1 and 27, wherein the steps of enforcing are performed by mandatory security hardware or mandatory security software (paragraphs 53 and 96).

6.6. As per claim 6, Siann is directed to a method as in claim 1, wherein the steps of enforcing include steps of decrypting at least some information derivable from the text-based message (paragraph 43 discloses delivery of access data

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using text-based messages (SMS) and paragraph 105 discloses decrypting of access data using keys.).

6.7. As per claim 7, Siann is directed to a method as in claim 1, wherein the steps of enforcing includes using a key derived from the message for decrypting a license or content (paragraph 105).

6.8. As per claim 8, Siann is directed to a method as in claim 1, wherein the steps of enforcing includes putting together at least an identity of the playback device and an identity of content; applying at least part of the message, the identity of the playback device, and the identity of the content to authenticate the execution rights for the playback device for the content (paragraph 106 describes content media access control based on messages directed to the Media Player. Authentication of content and access control based on content identification, device identification and the authenticating message was a standard, well-known and widely practiced at the time of invention.).

6.9. As per claim 9, 33 Siann is directed to a method as in claim 1 and 27, wherein the steps of enforcing includes applying a key derived from the message as an authentication code (paragraph 56 discloses user and content identification data transmitted to media player as part of access data and paragraph 97 discloses securing access data using cryptographic methods).

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6.10. As per claim 10, Siann is directed to a method as in claim 1, wherein the message is composed on an SMS (paragraph 57).

6.11. As per claim 11, Siann is directed to a method as in claim 1, wherein at least a portion of the message is manually entered into the playback device (paragraph 47 describes manual entry of the data by humans, which discloses manual entering of the access code to the media player by a human).

6.12. As per claim 12, Siann is directed to a method as in claim 1, wherein at least a portion of the message is provided to the playback device, wherein the playback device processes the portion of the message and produces a licensing message suitable to be sent by the handheld device, and wherein the licensing message is provided to the handheld device (paragraph 81. Also, paragraph 90 describes content provider payments when users play their content or download the licensed content. This clearly implies a licensing message from user to content providers via Media Player. Note that per paragraph 95 the communication between the Media Player and Content Providers is two way).

6.13 As per claim 13, 30, Siann is directed to a method as in claim 12 and 27, wherein the licensing message is encrypted or cryptographically authenticated by the handheld device and sent to a license server (per paragraphs 9 and 83, the

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communication between different elements is secured, and per paragraph 51, security is provided by use of cryptographic methods).

6.14. As per claim 14, Siann is directed to a method as in claim 1, wherein the steps of enforcing include steps of using a decryption key available to the playback device or a secure processor coupled thereto (paragraph 80).

6.15. As per claim 15, Siann is directed to a method as in claim 1, wherein said text-based message is a first message, further comprising sending a second message from the hand-held device to a license server (paragraph 81); sending a first message from the license server to the hand-held device (paragraph 81), the first message including human-readable characters; and manually entering those characters to an input element coupled to the playback device (paragraph 47 describes manual entry of the data by humans, which discloses manual entering of the access code to the media player by a human).

6.16. As per claim 16, Siann is directed to a method as in claim 1, wherein the system includes a closed content distribution system capable of delivering content to the playback device using a second transport technique not including that used by the steps of sending a text-based message (Fig. 1B and associated text).

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6.17. As per claim 17, Siann is directed to a method as in claim 1, wherein the system includes a closed content distribution system capable of ensuring that only authorized content is presented by the playback device or executed by the secure processor (paragraph 98).

6.18. As per claim 18, Siann is directed to a method as in claim 1, wherein the, text-based message includes an authentication code; and the system includes a secure processor capable of authenticating content coupled to the playback device in response to that authentication code (Siann paragraph 79 discloses a header of media content that includes information to identify the content and access data. This data is used to authenticate the data and determine if the content should be made available to user).

6.19. As per claim 19, Siann is directed to a method as in claim 1, including steps of authenticating the right information by the playback device or a secure processor coupled thereto (right information is included in the access rules, paragraph 40. Siann's method provides access rules to the Media Player in a secured manner).

6.20. As per claim 20, Siann is directed to a method as in claim 1, further comprising decrypting at least some information derivable from the text-based message (paragraph 43 discloses delivery of access data using text-based

messages (SMS) and paragraph 105 discloses decrypting of access data using keys).

6.21. As per claim 21, Siann is directed to a method as in claim 1, further comprising using a decryption key available to the playback device or a secure processor coupled thereto (paragraph 80).

6.22. As per claim 22, Siann is directed to a method as in claim 1, wherein the text-based message includes characters, further comprising; decoding characters included in the text-based message; deriving rights information from at least some of those characters (right information is included in the access rules, paragraph 40. Siann's method provides access rules to the Media Player in a secured manner, therefore requiring decoding of right information before enforcing them at the Media Player).

6.23. As per claim 23, Siann is directed to a method as in claim 22, wherein the steps of deriving are performed at least in part by the playback device or a secure processor coupled thereto (paragraph 40).

6.24. As per claim 24, Siann is directed to a method as in claim 22, wherein those characters include at least some information encrypted using a key available to the playback device or a secure processor coupled thereto

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(paragraph 51 discloses secured data delivery, including the access data and access rules, using cryptographic keys, and therefore implying encrypted access data).

6.25. As per claims 25 and 26, Siann is directed to a method as in claim 25 (see response to claim 1 and note that Siann discloses SMS as a method to send messages in paragraph 43, and authentication and media access control based on device ID and content ID and authenticating/authorizing message was a well-known standard practice to authenticate and enforce access control at the time of invention), wherein the playback device includes at least one of rights enforcing hardware, rights enforcing software, further including authenticating the rights information using the rights-enforcing hardware or rights-enforcing software, enforcing the rights information on the system using the rights enforcing hardware or rights enforcing software, in response to the text-based message. (paragraph 56 describes user and content identification data transmitted to media player as part of access data and paragraph, which discloses authentication. Paragraphs 53 and 96 disclose use of software and hardware to perform operations.).

6.26. As per claims 27, 28, and 29, Siann is directed to a method including steps of sending a text-based message to a hand-held device using an SMS technique, the text-based message including information from which rights information is derivable by a system including a secure processor and a playback

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device under control 2 of that secure processor; authenticating that rights information at the secure processor in response 4 to mandatory security software executed by the secure processor; and enforcing that rights information on the system in response to that text6 based message (see response to claims 1, 4 and 5).

6.27. Limitations of claims 34 and 35 are substantially the same as claims 1 to 9, with the added limitation of using a token to identify and deliver the signature to the playback device. Use of tokens to deliver a signature or other forms of authentication/authorization credentials was well-known and widely practiced at the time of invention. Barring any unexpected results, use of tokens as a method to deliver authentication credentials would have been trivial to a person skilled in the art at the time of invention.

6.28. As per claims 36, Siann is directed to a method comprising providing, in a closed content distribution system, an SMS text message that includes license information (license information is included in access data, which is delivered as depicted in Fig. 1B and associated text. SMS delivery method is disclosed in paragraph 43), the closed content distribution system including a playback device and a secure processor (the Media player as indicated in Fig. 4 and the associated text, includes a device to play the media to the output device and a secure processor (item 480 performs cryptographic functions to authenticate and access control)), wherein the SMS message is sent via a communication link not

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including the playback device or secure processor, constructing, at the playback device, parameters of possible execution rights; using at least part of the SMS text message as a signature to authenticate the constructed parameters of possible execution rights (Siann teaches media authentication and access control using signatures and credentials delivered via messages sent to the Media Player in, for example, paragraph 86. Siann also teaches using SMS as a method of delivering messages (paragraph 43). Therefore, Siann teaches delivery of access control data in its methods of transmission, one of which is SMS. The access control parameters delivered via messages are used at the Media Player to enforce authentication and access control.); ensuring that only authorized content is executed or presented by the playback device or the secure processor, or by both in combination or conjunction in accordance with the constructed and authenticated parameters of possible execution rights; and ensuring that rights information derivable from the license information is enforced by the playback device or the secure processor, or by both in combination or conjunction (see responses to claims 1 to 9).

6.29. Claims 37 and 38 are disclosed by Siann as it discloses claim 36 (see above) and all other limitations as described in responses to claims 1 to 26.

6.30. As per claims 39, Siann is directed to a method as in claim 36, including steps of encoding the license information using a digital signature, secure hash, or shared secret; and authenticating the license information by the playback

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device or the secure processor, or by both in combination or conjunction, in response to the digital signature, secure hash, or shared secret (paragraph 51 discloses use of cryptography in securing different processes and digital signatures, hashes and shared secret are well-known methods of providing security using cryptographic methods).

6.31. As per claims 40 to 42, 44 to 46, 48 to 49 Siann's Fig. 1B and associated text discloses a method of delivery of content and all other limitations as described in responses to claims 1 to 26.

6.32. As per claims 39, Siann is directed to a method as in claim 36, wherein the communication link includes a cellular telephone (paragraph 41)

6.33. As per claims 47, Siann is directed to a method as in claim 36, wherein the secure processor includes a computing device capable of general purpose processing (paragraph 50).

6.34. As per claims 50, Siann is directed to a method as in claim 36, including steps of performing a commercial transaction concurrently with communication between a license server and a user (paragraph 71 indicates that the user purchases content using the system, therefore performing a commercial transaction).

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6.35. As per claims 51 to 68 Siann is directed to a method as in claim 50 and all other limitations as described in responses to claims 1 to 26.

6.36. As per claim 69 Siann is directed to a system comprising a closed content distribution system (Fig. 1B) including a playback device (fig. 3 item 310) and a secure processor (fig. 4 item 480); a communication link not including the playback device or secure processor (Fig. 1B item 162); a license server capable of being coupled to the communication link (Fig. 1B item 160); wherein the playback device or the secure processor, or both in combination or conjunction, includes mandatory security software that is configured to construct parameters of execution rights, and to use at least part of the text message as a signature to authenticate the constructed parameters of execution rights (paragraphs 53 and 96, and see response to claim 36).

6.37. As per claims 70 to 90 Siann is directed to a method as in claim 69 and all other limitations as described in responses to claims 1 to 26.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is (571) 272-3739. The examiner can be normally reached on 9 hrs Mon-Fri, off Monday biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Farid Homayounmehr

F.A.

1/11/2006

Gilberto Barron Jr.

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